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REMARKS

UPON

PORNING's LAW,

AND THE

MANNER of passing BILLS

IN THE

P~~ARLIAM~~ENT of I~~RELAND~~D.

By a GENTLEMAN of IRELAND.



DUBLIN:

Printed in the Year M,DCC,LVIII.

R. E. M. A. R. K. S.

UPON

POWELL'S LAW,

AND THE

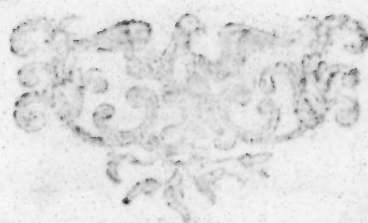
MANNER of passing BILLS

THE



PARLIAMENT of GREAT BRITAIN.

By a Gentleman of Ireland.



D U B L I N :

Printed in the Year M. DCC. LXXXIII.

REMARKS

ON

POYNING'S LAW, &c.

THE Proceedings in our P—l—nt, this S—n, relative to *Poyning's Law*, and the extraordinary Methods taken by those in Power, to prevent the Heads of a Bill, explaining that Act, being even brought into the H—se of C—ns, have made it so much the Subject of Conversation, both in *England* and *Ireland*, that I should think the publishing that Law, with some short Remarks on it, would be very acceptable to the Publick, were it only to gratify the Curiosity they must have, to know what the Nature of that Thing is, which they talk so much of: But I have a much stronger Motive for wishing that were performed; I think it absolutely necessary for the Welfare of this Country; as I am certain we have no Chance

of being freed from the Grievances, which, contrary to the Intention of those who made this Act, have arisen from it, until it shall be more thoroughly understood by the People of both Kingdoms.

I have long waited in expectation that some Person, more versed in the Construction of Acts of Parliament, and more used to express his Thoughts in Writing than I am, would have undertaken this Task; but since no such Person appears, I shall attempt it myself, and am the more encouraged to do so, because I really think the Subject not difficult; the Act is so plain that it speaks for itself; little more is necessary to make it understood, than the encouraging the reading of it, by publishing it in a plainer Character than that it is generally printed in, and the removing it from a formidable Folio into the more familiar Compass of a Pamphlet.

Few of my own Countrymen are acquainted with this Act; nay, many, I fear, even of our Representatives are so indolent, as to content themselves with that confused Idea of it, which they are able to form from the Debates before them; the People of *England* know nothing of it; to them, chiefly, I address myself; it is their Fears, their Jealousies, I wish to remove; for it is of little Importance to this Kingdom, what our Opinion of it is, so long as their superstitious Reverence for it shall remain: But as this, like all other Superstition, is founded on Ignorance, I cannot but hope that it will cease with the Error
which

which caused it; and that the Members of our P——t may hereafter be suffered to bring in a Bill, although it should happen to have those two sacred Words (*Poyning's Law*) contained in it, if I shall be able to convince the People of *England*, that the Bill which Mr. *Pery* offered to the H——e this S——n, was so far from desiring to repeal one Syllable of that Law, that it tended rather to restore it to its full Influence, and to root out those Abuses which have sprung up under the Shelter of it, and prevent its effectually answering the great Purpose for which it was made. — As that Gentleman with his usual Candour, some Days before he asked Leave of the H——e to bring them in, shewed the Heads of a Bill, which he intended to propose, to some Gentlemen, who must have acquainted our L——d L——t with the Tendency of them: In Justice to his Gr——e's Abilities we cannot but suppose, that, when he so earnestly opposed their being even read in the House, he acted rather in compliance with the Apprehensions of his Countrymen, than from his own Judgment of the Matter.

It seems necessary to warn my *English* Readers, not to confound the Act at present in Question, with another passed in the same Session, by which all the Statutes at that time subsisting in *England* are established in this Kingdom: This Mistake they might otherwise very naturally fall into, as most certainly, of the two Acts this last best deserves, for its superior Excellence, the distinguishing

guishing Appellation of *Poyning's Law*, though we in *Ireland* give that Title to the other, as that which most engages our Attention. It is remarkable, that Lord *Bacon*, when in his History of *Henry* the seventh he speaks of Sir *Edward Poyning's Expedition into Ireland*, says no more of his civil Administration here, but that " he passed " a memorable Act, which, at this Day, is " called *Poyning's Law*, whereby the Statutes of " *England* were made to be of Force in *Ireland*;" and takes not the least Notice of the following Act, although it made so critical a Change in the Constitution of this Kingdom.

An Act that no Parliament be holden in this Land, until the Acts be certified into England. Rot. Parl. cap. 9.

‘ *ITEM*, At the Request of the Commons of
 ‘ the Land of *Ireland*, be it ordained, enact-
 ‘ ed, and established, That at the next Parlia-
 ‘ ment that there shall be holden by the King’s
 ‘ Commandment and Licence wherein amongst
 ‘ other the King’s Grace intendeth to have a ge-
 ‘ neral Resumption of his whole Revenues sith
 ‘ the last Day of the Reign of King *Edward* the
 ‘ second, no Parliament be holden hereafter in
 ‘ the said Land, but at such Season as the King’s
 ‘ Lieutenant and Council there first do certify
 ‘ the King under the Great Seal of that Land
 ‘ the Causes and Considerations, and all such
 ‘ Acts as them seemeth should pass in the same
 ‘ Parliament,

‘ Parliament, and such Causes, Considerations,
 ‘ and Acts affirmed by the King and his Council
 ‘ to be good and expedient for that Land, and
 ‘ his Licence thereupon, as well in affirmation
 ‘ of the said Causes and Acts, as to summon the
 ‘ said Parliament under his Great Seal of *England*
 ‘ had and obtained, that done, a Parliament to
 ‘ be had and holden after the Form and Effect
 ‘ afore rehearsed: And if any Parliament be
 ‘ holden in that Land hereafter, contrary to the
 ‘ Form and Provision aforesaid, it be deemed
 ‘ void and of none effect in Law.’ *Ir. St.* 28.
H. 8. cap. 4, & 20 *11 El. cap. 1, & 8.*

Before this Act, our Lord Lieutenants, or
 their Deputies, were so fully vested with the regal
 Authority, that they were impowered to give
 the royal Assent to all Laws whatsoever, without
 communicating them to the King or the Ministry
 of *England*. The Abuse of this Power (a Power
 too great not to be abused) was the Occasion of
 this Law, by which it is ordained, that no Bill
 shall be propounded in *Ireland*, but such as
 should first be transmitted into *England*, and ap-
 proved of by the King and his Council there, as
 good and expedient for this Realm. This Act,
 though, at first Sight, it may seem to restrain
 the Liberty of the Subjects of *Ireland*, yet was
 certainly made, at the Request of the Commons,
 upon just and important Causes; for the chief
 Governors of this Kingdom, especially such as
 were Natives of it, had imposed many Laws upon
 them,

them, not tending to the general Good, but to serve private Turns, to strengthen their particular Factions, and oppress their Opponents; this moved the Commons to desire to refer all Laws, which were to be passed here, to the Consideration of the Council in *England*, who cou'd not be supposed to act from such private Views, but wou'd consult, impartially, the Welfare of this Kingdom: So this very Bill which our chief G——rs are so anxious to support, was originally designed as a Check upon themselves; and I must own, that its being in such high Favour with them, is, to me, a tacit Proof that it answers Purposes different from those for which it was originally designed.

That the Motive here assigned could be the only one for making this Law, will evidently appear, if we consider the deplorable Situation of the *English* in this Kingdom at that Period.

From the Time that *Richard* the Second left *Ireland* with his Army, to oppose the Progress of *Henry* the Fourth, during the whole Course of the Civil Wars which followed, for the Space of ninety Years, the *English* who were planted here, instead of receiving any Assistance from their Mother-Country, were continually drained by it of their most warlike Men; the Houses of *York* and *Lancaster* had each of them their Partizans in *Ireland*, who neglecting their own Country, used their utmost Efforts to support those Princes whose Cause they espoused; the native *Irish* taking Advantage of the Weakness which these

these Diffentions occasioned, attacked the *English* in all Parts of the Kingdom, who, unable to defend themselves, entered into Treaties with their Enemies, made Alliances with them, and, in process of Time, the principal Men amongst them became so well reconciled to the *Irish* Customs, which were much better calculated for Oppression, than those handed down to them by their own Ancestors, that they entirely threw off all Subjection to the Government of *England*; so that at the Time this Law was made, the loyal *English* were reduced to very little more than the four Shires which composed what was called the *English* Pale; and the Representatives of so wretched a People, must have been rather an Object of Compassion, than of Jealousy, to the Ministry of *England*.

We have been told by a M——r of our P——t, that the People of *England* call this Act the *Magna Charta* of *Ireland*; and look upon it as the Law by which the Dependence of this Kingdom upon *England* entirely subsists. I cannot but think that Gentleman has been misinformed; the *English* are, in general, too sensible a People to use Words without any Idea annexed to them, though too many of our own Countrymen learn that Habit with their Prayers: But if his Report be true, there cannot be a stronger Proof of their Ignorance of this Law, than their conceiving that Opinion of it.

What the Nature of our Dependence upon *England* is, I really do not know; and must, at

the same Time, declare, that I never wish to be better informed of it: But this I am certain of, that if there was no Dependence before, there is none created by this Law; though we may indeed look upon it as a Link of the Chain which unites us to that Kingdom, and one that we by no means desire to break. This Subject of our Dependence upon *England* is of so delicate a Nature, that I shall always avoid even speaking of it in publick, and shall look upon that Man as an Enemy to both Kingdoms, who shall endeavour to examine too curiously into that Matter, so long as the Power, which is claimed in consequence of that supposed Dependence, shall remain confined within those Bounds which Usage has already prescribed to it. The Cardinal *de Retz*, in his Account of the Insurrection of the *Parisians*, in support of their Parliament during the Minority of *Lewis* the Fourteenth, makes this very sensible Remark: *Le peuple entra dans le sanctuaire, il leva le voile qui doit toujours couvrir, tout ce que l'on peut dire, et tout ce que l'on peut croire, du droit des peuples, et de celui des rois, qui ne s'accordent jamais si bien, que dans le silence.* Never did any Subject require to be treated with this cautious Reserve, more than the mysterious Connexion between this and its Sister Kingdom.

Though I do not look upon *Poyning's Law* as a Thing so sacred that it must not even be mentioned in our P——t, I am as strenuous an Advocate for it; and am much more interested in the Preservation of it, than any *Englishman* can

can be : I think it still as necessary for the Well-being of this Kingdom, as it was when first it was made ; nay, more necessary, as, since the Reformation, the established Religion is no longer the Religion of the Nation. The Dispositions of Men are the same in all Ages. A future L—d L———t may chuse, as formerly they did, to govern by a Faction ; and the Leaders of that Faction, though they must be professed Protestants, may be, in reality, the secret Supports of the Popish Religion. — If this Age excels in any thing, it is in the Arts of Corruption : A L—d L———t may have Address enough (and Men will give the Crime that gentle Name) to BRIBE, with our OWN MONEY, the greatest PATRIOTS of the Nation, to break all the Promises they have made the People, and tamely give up the Interests of their Country ; the Consequences which might attend the absolute Repeal of *Poyning's Law* are such, as every honest *Irishman* must shudder at the Thought of. We do not form a Wish to get rid of that Law, but are perfectly satisfied to have all our Bills submitted to the K—g and his C—ncil in *England* ; all we desire is, to be suffered to lay our Petitions before him in our own Words, and to remove that Barrier which obstructs the Communication between his M—j—sty and his Subjects of this Kingdom.

There have been two temporary Repeals of *Poyning's Law* ; and nothing can shew more strongly the Regard which all the Branches of the Legislature have had for it, than the great Cau-

tion that is used to prevent any ill Consequences which might arise from the Suspension of it.

The first of these Suspensions was in the Twenty-eighth Year of *Henry* the Eighth, and seems, at that Time, to have been absolutely necessary ; as it was during that Session that the Reformation was established in *Ireland* ; and it is not to be supposed that the Council of this Kingdom could certify, previous to the Meeting of the Parliament, all the Laws which should be requisite to bring about so great a Change in our Religion, and Constitution. To prevent any bad Use being made of this Act of Suspension, there was a Proviso in it, that no Act should be passed in that Parliament, which related to the Property of private Persons, or of incorporate Bodies, but such only as should be expedient for the King's Honour, the Increase of his Revenues and Profits, *and* the common Weal of this Realm. Some People having imagined that every particular Act, which this Parliament was impowered to make, was both to be conducive to the King's Honour and Profit, and also to the common Weal of this Kingdom, it was found necessary, before the End of the Session, to explain it by another Act, in which this too curious Distinction was over-ruled and severe Penalties denounced against those who should controvert the Validity of the Laws made by that Parliament. The Copulative *and*, in the foregoing Paragraph, was the Occasion of that Doubt.

The other Suspension of *Poyning's* Law was in the

the Eleventh Year of Queen *Elizabeth's* Reign. It does not appear from the Acts of that Parliament, what the Motive was for the repealing it at that Time; but there is one very extraordinary Circumstance attending it, which is, that the Repeal itself was entirely unnecessary, as it was subsequent to the Act made in the third and fourth Years of *Philip* and *Mary*, which had already freed our Parliaments from the Restrictions of *Poyning's* Law; and though it is called only an Explanation of that Statute, had left them more at Liberty than this Act of Queen *Elizabeth* does, which is intitled a Repeal of it: For to make any Act valid, which should be passed by this Parliament, not only all the Forms prescribed by the Statute of *Philip* and *Mary* were to be pursued, but, before the Bill could have the Force of a Law, it was likewise to be proclaimed in *Dublin*, and five other of the principal Cities in *Ireland*. There was also a Clause in this Act against private Bills. For my Part, I think there is no Possibility of accounting for this Suspension, unless by supposing that the Council of each Kingdom, and all the Branches of the Legislature, had entirely forgotten a Statute of great Importance, which had passed no more than thirteen Years before.

At the latter End of the same Session there was another Act passed, in which both Houses of Parliament declare, ' that as before that Statute, ' when Governors had Liberty to call Parliaments

at

‘ at their Pleasure, several Acts had passed, as
 ‘ well to the Dishonour of the Prince, as the
 ‘ Hindrance of the Subjects, nothing but their
 ‘ entire Confidence in Sir *Henry Sidney*, his Ma-
 ‘ jesty’s Deputy, could have made them *condescend*
 ‘ to a Repeal of *Poyning’s Law*.’ And as future
 Governors might not follow his good Example,
 but from Affection, or some other Respect, might
 abuse the like Liberty, it is enacted, ‘ that no
 ‘ Bill for the Repeal of *Poyning’s Law* shall be
 ‘ certified into *England*, unless it be first agreed
 ‘ to by a Majority of each House of Par-
 ‘ liament.’ This last Clause was urged this pre-
 sent Session, as a Reason against receiving in the
 House of Commons Heads of a Bill to explain
Poyning’s Law; but very absurdly; for a Bill, in
 order to pass both Houses, must necessarily be
 first brought into one of them; and indeed if any
 Statute, passed in this Parliament of the Eleventh
 of *Elizabeth*, did really stand in the Way of those
 Alterations which we desire to make in the present
 Manner of passing Bills, I do not think that we
 ought to pay much Regard to it, as that Parlia-
 ment most certainly did not know how our Con-
 stitution stood at that Time; they were ignorant
 of the Statute of *Philip and Mary*; and, from the
 very cautious Humour they seem to have been in,
 it is probable they would have repealed that Sta-
 tute, if they had recollected it. These two Acts
 of *Elizabeth* I have ordered to be printed at the
 End of this Pamphlet, for the Satisfaction of those
 who may not have the *Irish* Statutes to turn to:
 Those

Those of *Henry* the Eighth are meerly temporary ; indeed they are all rather Matter of Curiosity, than Instruction, as our Constitution does at present entirely depend upon the Act made in the third and fourth Years of *Philip* and *Mary*.

The Inconvenience which must inevitably attend the adhering strictly to the Letter of *Poyning's* Law is very obvious. When the Gentlemen, elected to serve in Parliament, met from their several Countries, and consulted together, many good Regulations might naturally occur to them, which were not foreseen by the Council, yet these, however expedient, could not pass into Laws, not having been certified into *England*, previous to that Meeting. To remedy this Inconvenience, in the aforesaid Reign an Act was passed, declaring how *Poyning's* Law shall be expounded and taken.

An Act declaring how Poyning's shall be expounded and taken. Rot. Parl. cap. II.

‘ **W**HERE at a Parliament holden at *Drogh-*
 ‘ *eda* the *Monday* next after the Feast of
 ‘ *Saint Andrew* the Apostle in the Tenth Year of
 ‘ the Reign of the late King of famous Memory
 ‘ *Henry* the 7th Grandfather unto our Sovereign
 ‘ Lady the Queen before Sir *Edward Poynings*
 ‘ Knight, then Lord Deputy of this Realm of
 ‘ *Ireland*, An Act among other things was enact-
 ‘ ed and made for and concerning the Order
 ‘ Manner and Form of Parliament to be from
 ‘ henceforth

‘ henceforth holden and kept in this Realm of
 ‘ *Ireland* in Form following. *Item*, at the Re-
 ‘ quest of the Commons of the Land of *Ireland*,
 ‘ be it ordained, enacted and establiſhed, That
 ‘ at the next Parliament that there ſhall be holden
 ‘ by the King’s Commandment and Licence,
 ‘ wherein amongſt other the King’s Grace intend-
 ‘ eth to have a General Reſumption of his whole
 ‘ Revenue ſith the laſt Day of the Reign of King
 ‘ *Edward* the Second, no Parliament be holden
 ‘ hereafter in the ſaid Land, but at ſuch Season as
 ‘ the King’s Lieutenant and Council there do
 ‘ firſt certify the King under the great Seal of
 ‘ that Land the Cauſes and Conſiderations of all
 ‘ ſuch Acts as them ſeemeth ſhould paſs in the
 ‘ ſame Parliament, and ſuch Cauſes Conſidera-
 ‘ tion and Acts affirmed by the King and his
 ‘ Council to be good and expedient for that Land
 ‘ and his Licence thereupon, as well in affirma-
 ‘ tion of the ſaid Cauſes and Acts, as to ſummon
 ‘ the ſaid Parliament under his great Seal of *Eng-*
 ‘ *land* had and obtained, that done, a Parliament
 ‘ to be had and holden after the Form and Effect
 ‘ aforeſaid: And if any Parliament be holden in
 ‘ that Land hereafter contrary to the Form and
 ‘ Proviſion aforeſaid, it be deemed void and of
 ‘ none effect in the Law, as by the ſaid Act more
 ‘ at large it doth appear, for as much as ſithence
 ‘ the making of the ſaid Act, diſerſe and ſundry
 ‘ Ambiguities and Doubts have been made and
 ‘ riſen upon the true Underſtanding and Meaning
 ‘ of the ſame: For the avoiding of the which
 ‘ Doubts

‘ Doubts and Ambiguities, and for a full and
 ‘ plain Declaration of the true Meaning and Un-
 ‘ derstanding of the said Act, Be it ordained,
 ‘ enacted and established, by Authority of this
 ‘ present Parliament, That the said Act and eve-
 ‘ ry Clause and Article therein contained, shall
 ‘ from the first Day of *September* last past, be ex-
 ‘ pounded, understood, and taken as hereafter
 ‘ followeth, that is to say That no Parliament be
 ‘ summoned or holden within this Realm of *Ire-*
 ‘ *land*, until such times as the Lieutenant, Lord
 ‘ Deputy, Lord Justice, Lords Justices, Chief
 ‘ Governor or Governors or any of them, and
 ‘ the Council of this said Realm of *Ireland* for the
 ‘ time being shall have certified the King’s and
 ‘ Queen’s Majesties her Heirs and Successors un-
 ‘ der the great Seal of this said Realm of *Ireland*,
 ‘ the Considerations, Causes, and Articles of such
 ‘ Acts, Provisions and Ordinances as by them
 ‘ shall be then thought meet and necessary to be
 ‘ enacted and passed here by Parliament, and shall
 ‘ have also received again their Majesties Answer
 ‘ under their great Seal of *England*, declaring
 ‘ their Pleasure either for the passing of the said
 ‘ Acts, Provisions and Ordinances, in such Form
 ‘ and Tenour as they should be sent into *England*,
 ‘ or else for the Change or Alterations of them,
 ‘ or any Part of the same. And be it further
 ‘ enacted by the Authority aforesaid, that after
 ‘ such Return made, and after Licence and Au-
 ‘ thority to summon a Parliament within the said
 ‘ Realm of *Ireland*, granted under the great Seal

‘ of *England*, unto the said Lieutenant or Lord
 ‘ Deputy, or other Lord Justice, Lords Justices,
 ‘ Chief Governor or Governors of the same Realm
 ‘ of *Ireland* for the time being, and not before
 ‘ the same Lieutenant, Lord Deputy, Lord Jus-
 ‘ tice, Lords Justices, Chief Governor or Gover-
 ‘ nors, shall and may summon and hold a Par-
 ‘ liament within this Realm of *Ireland*, for pass-
 ‘ ing and agreeing upon such Acts and no other
 ‘ as shall be so returned under the said great Seal
 ‘ of *England*, and forasmuch as many Events and
 ‘ Occasions may happen during the time of the
 ‘ Parliament the which shall be thought meet
 ‘ and necessary to be provided for and yet at or
 ‘ before the time of the summoning of the Par-
 ‘ liament was not thought nor agreed upon.
 ‘ Therefore be it further enacted and established
 ‘ by Authority of this Parliament, that as well
 ‘ after every such Authority and Licence sent into
 ‘ this Realm of *Ireland*, as also at all times after
 ‘ the Summons, and during the time of every
 ‘ Parliament to be hereafter holden within the
 ‘ said Realm of *Ireland*, according to the Tenour
 ‘ and Form of this Act, the Lieutenant, Lord
 ‘ Deputy, Lord Justice, Lords Justices, Chief
 ‘ Governor or chief Governors and Council of the
 ‘ same Realm of *Ireland* for the time being, shall
 ‘ and may certify all such other Considerations,
 ‘ Causes, Tenours, Provisions, and Ordinances
 ‘ as they shall further then think good to be en-
 ‘ acted and established at and in the same Parlia-
 ‘ ment, within the same Realm of *Ireland*, to the
 ‘ King’s

‘ King’s and Queen’s Majesties her Heirs, and
 ‘ Successors under the great Seal of this said
 ‘ Realm of *Ireland*, and such Considerations,
 ‘ Causes, Tenours, Provisions, and Ordinances,
 ‘ or any of them as shall be thereupon certified
 ‘ and returned into the said Realm, under the
 ‘ great Seal of *England* and no others, shall and
 ‘ may pass and be enacted here in every such
 ‘ Parliament within this said Realm of *Ireland*, in
 ‘ case the same Considerations, Causes, Tenours,
 ‘ Provisions, and Ordinances, or any of them be
 ‘ agreed and resolved upon by the three Estates
 ‘ of the said Parliament: any thing contained in
 ‘ this present Act or in the foresaid Act made at
 ‘ *Drogheda* to the contrary notwithstanding. Pro-
 ‘ vided always and be it further enacted by the
 ‘ Authority of this present Parliament, that all
 ‘ and every Parliament and Parliaments, sum-
 ‘ moned, kept and holden within this Realm of
 ‘ *Ireland* since the making of the said former Act
 ‘ in the said tenth Year of the Reign of the said
 ‘ late King *Henry* the seventh, and all and every
 ‘ Act, Acts, Ordinances and Provisions, made,
 ‘ passed, ordained and enacted in the same, shall
 ‘ be and remain in such and the same Force,
 ‘ Strength, Validity and Effect to all Intents,
 ‘ Constructions and Purposes as if this Act had
 ‘ never been made: this Act or any thing
 ‘ therein contained to the contrary notwithstand-
 ‘ ing. Provided also that this Act or any thing
 ‘ therein contained, shall not extend or be meant,
 ‘ to the defeating or hindrance of any the Pro-

‘ visoes made in this Session of this present Parliament.’

By this Act the Parliament is impowered to pass all Bills which shall, at any time during the Session, be certified to his Majesty by the chief Governor and Council, as expedient for this Kingdom; and shall be returned unto us under the great Seal of *England*. By this, and *Poynings’ Law*, our Proceedings are, at present, directed. At the first Sitting of every new Parliament, and then only, some Bills are sent over under the great Seal of *England*, and are either passed, or rejected, by the two Houses here. But the ordinary Course of Business is this: A Member of either House brings in * Heads of a Bill, (if a Commoner, he must demand the Leave of that House) which, if they pass, are carried to the Lord Lieutenant, and, by him, referred to the Council, who alter them in whatever Manner they chuse, and then certify them to his Majesty under the great Seal of *Ireland*. In *England*, they are referred, by the Council of that Kingdom, to the Attorney-General, and are formed by him into

* Heads of a Bill. A Term not known in *England*. And though certainly of modern Invention, I cannot say at what Time it was first introduced into our parliamentary Proceedings. They differ from a Bill meerly in the Title, and do not assume that Name until they are returned to us from *England*: Before that Time they are looked upon rather as Petitions to his Majesty, to let him know what Laws his People desire, than regular Bills. The Phrase is an aukward one, so I shall not use it, unless when it shall be necessary to mark the Distinction.

into such a Bill as they shall approve of, which is returned to us under the great Seal of *England*, and sent back to the House in which it first took its Rise ; which can barely accept, or reject, it ; but has not the Power of altering one Word of it. If it passes that House a second Time, it is sent to the other, and afterwards receives the royal Assent.

I have traced a Bill thus through all the Windings of our Constitution, for the Information of my *English* Readers, who might otherwise imagine that, as the Branches of the Legislature are the same in both Kingdoms, the Manners of passing Bills in each should also have some Resemblance. But, in this respect, our Constitution is directly the Reverse of theirs. In *England* the two Houses have the Right of proposing, the King that of passing, or rejecting, Bills : But, in *Ireland*, all Bills move from the Crown, and the Negative is in the two Houses of Parliament. This will plainly appear to whoever shall consider with Attention the Manner in which our Laws are passed, and consider the Difference between the Heads of a Bill, and the Bill itself.

Although it may seem so foreign from my present Subject, I cannot help remarking, that the viewing our Constitution in this its true Light, shews evidently how very nugatory that Question about the previous Consent was, which occasioned such Contests in this Country four Years ago, and gave the Seventeenth of *December* so high a Rank amongst our historical Toasts. It also shews
how

how very ill advised those Persons were, in either Kingdom, who insisted upon pushing on so trifling a Point, in opposition to the Current of popular Prejudice and Clamour. — In the Parliament of *England* indeed, where the Crown has meerly a Negative when any thing is moved which may possibly interfere with the particular Rights of the Crown, it is usual for some of the King's Servants to rise, and declare, in his Majesty's Name, that he consents to have that Matter proposed; but, in our Parliament, such a previous Consent would be ridiculous; for as all our Bills proceed from the Crown, to whom is his Majesty to give that previous Consent? Why, to himself; which is little better than a Blunder. There is no Man in *Ireland* better pleased than I am with the Consequences which attended that Question; yet, when I call it a nugatory Question, I give it the Name it most justly deserved. For if his M-j-ty should think proper to give fifty previous Consents to himself, I cannot see how the Liberty of the People could be infringed by them, or any Reason why the most austere Patriots should be offended at it, though a Critick might; and on the other Hand, if the whole hereditary Revenue were to be taken away by a single Bill, I think it would be absurd for the Gentlemen of the Court Party to insist upon having his M-j-ty's previous Consent inserted in the Preamble of it; since its being brought into either House of Parliament is, in reality, the Act of his Majesty, or, at least, an undoubted Proof that it has
received

received his royal Approbation. But to return to my Subject.

This Statute of *Philip* and *Mary* was certainly necessary to free us from the Confinement of *Poynings' Law*; it is not intitled an Amendment, but only an Explanation of that Law; and it must be confessed to be a very liberal Explanation, since, by a subsequent Parliament in Queen *Elizabeth's* Reign, an Act of exactly the same Import is called a Repeal of it.

By a still more liberal Explanation of this last Statute, the C—ncil of this K—d—m have arrogated to themselves a Power of examining all Heads of Bills sent to them from either H—se of P—l—nt, and of stopping them entirely; or of making such material Alterations in them, that they are no longer the Petitions of the People, but their own. Nay, in many Cases, they have so entirely perverted the Nature of the Bills, that the Tendency of them, when transmitted by the C—ncil to E—d, has been directly opposite to the Intention of that H—se in which they took their Rise.

I shall not take it upon me to determine, whether by nice verbal Distinctions; by Dissertations on the Word *certify*; and by forced Inferences from other Words, the C—ncil may not be able, in some Manner, to support the Legality of the Power which they have exerted, and prove it warranted by Law, if not *in totidem verbis*, at least *in totidem litteris*. I am the more willing to wave this Question, from what I ob-

served

served when this Affair was debated in the H—se of C—ns. While the Lawfulness of their Power was contested, there were many who spoke in Support of it; but when that Point was given up, there was no longer one Word said in Defence of the C—ncil; it seemed to be the unanimous Opinion of the H—se, that this Power was exorbitant; and absolutely inconsistent with the very Nature of a P—l—t representing a free People. But surely it is equally injurious to the Pr—ve of the Cr—n, as it stops all Inter-course between his M—j—sty and his P—l—t, and makes it impossible for him to know the Wishes of his People, though he may know the Desires of the L—d L—t, and *his* C—ncil.

However the Words of that Law may be strained to support this despotick Rule over the K—g, L—ds, and C—ns of this Kingdom, it is most clearly contrary to the Intention of the very Act from which the C—ncil pretends to derive that Power. The only rational Motive for taking off the Restrictions of *Poynings' Law*, and suffering our P—l—t to pass Bills not certified previous to the Meeting of it, arises from this Supposition, that when the Gentlemen, returned to serve in P—l—nt, consulted together, they might probably think of some good Institutions which were not foreseen by the C—ncil: But there can be no Reason given, why the Pr—vy-C—ncil should be more wise, or better informed, after the Meeting of P—l—nt, than they were before. Indeed if
that

that Board was constituted in those Days, as it has been for some Years past, there was not any great Reason to suppose that it shou'd have much Knowledge in the Interests of this Kingdom.

When the Parliament, in the eleventh Year of Queen *Elizabeth*, repealed *Poynings' Law*, the Reason they gave for it is this; that, without such a Suspension, *the most grievous Sores of this Commonwealth, which are best known to such as are, or shall be appointed to be of that high Court (the Parliament) and most felt by them, cannot be reformed conveniently, as not having been before certified.* Can it be supposed that, at that Time, a Power existed in the C—ncil to controul that very Body, which all the Branches of the Legislature declare, must be the best acquainted with the Grievances of the Commonwealth, and best know the Means of redressing them? Can it be supposed they had a Power to prevent the Sovereign's receiving so necessary an Information from that Part of his People, which is confessed to be the most capable of giving it? yet the Act of *Philip and Mary* existed at that Time. And, in my Opinion, if the C—ncil were not immediately put into Possession of the Power which they claim under that Statute, that single Circumstance is an undoubted Proof that it could not be the Intention of the Act, to vest them with such a Power, but that it was afterwards assumed by them, and the Words of the Law, construed in such a Manner, as to warrant the Usurpation. If

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they had been put in Possession of their present Authority by the Statute of *Philip and Mary*, it is absolutely impossible that the Act of the eleventh of *Elizabeth* should ever have been made.

As this Statute of *Philip and Mary* is but explanatory of *Poynings' Law*, all Power given by it must be considered as arising from the original Act, and tacitly implied by it. Let us for a Moment suppose Sir *Edward Poynings* restored again to Life, and sent into this Kingdom: The C—ncil, (as in common Gratitude they ought) would certainly wait upon his Excellency, to thank him for the supreme Authority which he has lodged in their Hands. How astonish'd he would be at such a Compliment! how he would spurn from him the spurious Institution, for pretending to derive from him a Power so diametrically opposite to all the Principles from which he acted! For I do insist upon it, that the Power assumed by the C—ncil is so; and that the Gentlemen who endeavoured to limit that Power pursued the true Spirit and Policy of Sir *Edward Poynings*. When he took so effectual a Method to prevent any Laws being passed by our chief G—v—n—rs, which should not first be approved of by the K—g and his M—ry in *England*, could it be his Intention to leave those chief G—v—n—rs a Power of stopping all Communication betwixt his M—sty and this P—l—nt, and of putting a Negative upon all Laws which should in any manner interfere with their

their particular Interests, or those of the Faction that they shall chuse to govern by? Could it be his Intention to leave the L—d L——nt, a Power of declaring, as he now may, that no Laws, however necessary, shall pass in *Ireland*, while he has the Government of that Kingdom?

It is not through Ignorance, or Mistake, that I have here put the L—d L——nt in the Place of the C——ncil; but as there is not a single Instance, in our History, of any publick Point, in which the Will of the L—d L——nt was not the Will of the C——ncil, I think I may, without any Unfairness, suppose, that any Authority reserved to that Board, is still vested in the chief G——r. And, indeed, it may as safely be vested in him, as in the C——ncil; since the Members of it, however respectable they may be, are still but a Junto of our Fellow-Subjects, and liable to the same Prejudices and Partialities; the Influence of which Sir *Edward Poynings*, and the Commons at that Time, thought it so very necessary to guard against.

It has been said in Defence of the C——ncil, that it is chiefly composed of those Members of each H—se of P—l——nt, who have the most independent Fortunes, and to whom, of consequence, we may most safely trust the Concerns of the Kingdom. This is a plausible Argument; but we all know, that the Business at that Board is always carried on by the Ar—hb—ps, the chief J——s, and those who possess the high

Employments of the St—te and the R——e. The List of Pr—y-C——rs is, indeed, very large; but few of them, except those who, by their Employments, are Men of Business, do sufficiently regard the Duties of that Office; their Indolence, their Love of Pleasure, or the Care of their private Affairs, prevent their attending an Assembly, where they know their Opinions will have little Weight: If so many of the independent Gentlemen were to attend the C—ncil, as should out-number those who are immediately connected with the G——nt, I fear the List would soon become less numerous. Three of our A—chb—ps, as many of our chief J—s, are *English*; nor have we Reason to think that the Natives of this Kingdom will, for some time to come, have a larger Share of those great Preferments. These Gentlemen are brought over to us, advanced in Years; and (though we have now an Instance to the contrary) cannot, in general, be supposed to understand thoroughly the Interests of this Kingdom, or to be very anxious for the Welfare of it. This I am sure of, that though their Successors should always prove to be as knowing, and as well-affectioned to this Country, as they are who at present fill so worthily those high Employments, we cannot expect from them the same Feeling for our Grievances, or the same Fondness to redress them, that the Father of his People would have, if they were suffered to reach his paternal Ear.

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When this Subject was debated in the House of Commons, some Gentlemen, I cou'd perceive, did seem to imagine, that *Poynings' Law* (by ordaining that no Parliament should be called in this Kingdom, until sufficient Cause for its Meeting should be certified to the King by the Privy Council) did ingraft, as it were, the Council into our Legislature, and invest it with a peculiar Power, distinct from any which the Council of *England* enjoyed. But this is a mistaken Notion, and arises from their not sufficiently considering how very different both the Nature of Parliaments in *England*, and the Manner of calling them, are at present, from what they were at the Time this Law was made. For several Reasons, too obvious to be mentioned, the Government of *England* cannot now subsist for a single Year without a Parliament; but in the Time of *Henry the Seventh*, and for a long while after, the Crown was possessed of large Estates, which, with a few Taxes that were granted to the King for Life at the Beginning of every Reign, were sufficient for the Safeguard of the Kingdom, and the Support of the Crown: Parliaments were never called, unless when a War made it necessary to demand a Subsidy from the People, or some Laws were thought of which it was expedient to pass; the Business it met for was generally dispatched in a few Days, and the Parliament dissolved. Even in *Queen Elizabeth's* Reign, the most popular of our Princes, the

the P—l——nt sat but for three Weeks in eleven Years ; and did not sit at all for eight Years together. Nor were the People jealous of these long Intermissions ; they had an entire Confidence in her, and knew that they did not arise from any evil Design, or from any Aversion she had from the meeting her People in P—l——nt ; but meerly from her thinking there was no Occasion for such a Meeting.

When there was no P—l——nt in being, the C—ncil was the only Body of Men in the Kingdom that could judge what Laws were necessary to be made, and could advise the S——reign to call a P—l——nt for that Purpose ; and, in this respect, the Power of the *English* and the *Irish* C—ncil was exactly on the same Footing, though one material Circumstance made an unavoidable Difference between their Manners of executing it : The Absence of the K—g from this Realm made it absolutely necessary for our C—ncil to certify to him, the Causes for which they desired a P—l——nt might be called ; but it would be quite ridiculous for the *English* C—ncil to observe the same Form, and give his M—j—sty a regular Certificate of what they had debated and resolved on in his Presence. In either Case they do but advise the S——reign ; and there is no more Difference between the two Ways of doing it, than there is between speaking an Opinion, and writing it : The C—ncil of *Ireland* are necessitated to *send* their Advice to his M—j—sty,

M—j—sty, and to send it in such a Manner, that the Authenticity of the Transmit cannot be doubted; the great S—l of *Ireland* affixed to it, is the surest Proof of that; and this is called *certifying*. Before the Meeting of P—l—nt, they are to certify to the K—g their own Opinion; but after the P—l—nt is assembled, they ought to certify the Opinion of the Lords and Commons; and there cannot be an higher Absurdity, than the suffering them to certify their own Opinion in opposition to the Judgment of those whom all the Branches of the Legislature have declared, to be *the best acquainted with the Grievances of the People, and to know best the Means of redressing them.*

I hope it appears plainly from what I have said, that though I will suppose the Power exerted by the C—ncil to be legal, I am by no means convinced that it really is so. But, indeed, I think that Point not worth contesting: An Usurpation of so long standing is more difficult to remove than a legal Authority; for it will be more earnestly defended, as much better calculated to answer the Purposes of Oppression, since there are no fixed Rules to which it can be reduced, nor any Limits appointed, but such as the Usurpers themselves shall think proper to prescribe to it. It would fill a Volume to recount the numberless Instances in which this Power has been most grossly abused. I shall mention but one as a Sample of the rest. The People of
England.

England; though they will not allow this Nation to be independent, will certainly own, that the Individuals of it have a Right to be free; does any *Englishman* imagine that we have no *Habeas Corpus* Act in this Kingdom? a Law which they justly think so essential to Liberty, that it is with the utmost Reluctance they consent to suspend it even for a Day. Will any *Englishman* believe that it is to our own C—ncil only, we owe the Want of so necessary a Law! Yet the Fact is, that it has every Session, for these twenty Years, passed unanimously the House of Commons, and has as often been stopped by that right honourable B—rd.

I have heard much said, upon a late Occasion, of the Conscience of a Pr—y-C—r, and of the Tenderneſs with which it is to be treated. He must not be compelled to certify into *England* any Bills which he does not himself approve of as expedient for this Kingdom, but must pay more Regard to his own Opinion, than to the Sense of the Nation. Out of Respect to these tender Consciences, the *Habeas Corpus* Act was, last S—n, worded with unusual Caution; as we were then at the Eve of a War, it was not to take Place for two Years from the Date, that it might be in the Power of the subsequent P—l—nt to prolong the Suspension of it, if it should be judged expedient; and as the *Roman* Catholicks of this Kingdom, although they have never expressed them in their Actions, may be supposed

supposed to form Wishes against the present happy Establishment, there was a Clause in the Bill, to exclude all Persons of that suspected Religion from the Benefit of the Act. Will any Pr—y-C——r presume to say, that he acted from his Conscience, when he threw out a Bill so framed? or assert, that such an Act would not be for the Welfare of this Kingdom? where it is still more necessary than in *England*, as our J——s hold their Places only during the Pleasure of the Cr—n, and, consequently, we hold our Liberty by the same precarious Tenure. Under the present mild Administration we have nothing to fear, either from the Want of the *Habeas Corpus* Act, or the Dependence of our J——s; but the Power remains, while the Persons that exercise it are transitory; and though no bad Use has as yet been made of it, we are not to infer from thence, that it will never be abused: A good Prince would prove the greatest Misfortune to a Nation, if, soothed by the Happiness they enjoy under his benign Influence, they should neglect making such Laws as may serve for their Refuge in a more boisterous Season; since the same fatal Instant may put an End to the Life of their Protector, and deliver them into the Hands of an Oppressor, disarmed of their Laws.

I do not exaggerate when I say, that to the C—ncil only we owe the Want of this most excellent Law. It would be absurd, nay, almost criminal, to suppose, that a K—g who, like his royal Predecessor, makes it the Glory of his

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Reign to rule over a free People, should refuse the most loyal Part of his Subjects, a Law so essential to their Liberty; a Law, which those very People are suffered to enjoy, whose frequent Disloyalties have so often occasioned the Suspension of it.

It is, indeed, to that one capital Grievance, the Power assumed by the C—ncil, that we owe every Hardship we are forced to endure; it is by no means the Interest of *England* to oppress us, and I am sure it is not the Inclination of his present M—j—sty; but the most gracious Monarch cannot redress the Grievances of his Subjects, if they are not suffered to lay them before him. There was an Attempt made this S—n to free us from that Restraint, by * three Gentlemen, who have approved themselves the real Friends of their Country; Patriots I should wish to call them, if that Name did not too justly convey, to every *Irish* Ear, the Idea of Imposture, or Delusion, and remind us of the most notorious Breach both of publick and private Faith.

I shall not enter into a particular Detail of the Debates on this Occasion, but shall content myself with giving a succinct Account of the Proceedings, without marking the different Days on which they happened. Mr. *French* began the Attack by proposing to the H—se some Resolutions, which plainly tended towards voting the Power exerted by the C—ncil to be illegal, and,

* Mr. *Pery*, Mr. *French*, Mr. *Brownlow*.

and, consequently, to the Destruction of it: These Resolutions were warmly opposed; it was said, that the attempting by a Vote of that H—se to repeal an established Institution, would be a Precedent which might be attended with very fatal Consequences, as the other Branches of the Legislature, the K—g, or the H—se of L—ds, might think they were intitled to the same Liberty which the C—ns allowed themselves, and in pursuance of the Example set by them, might assert a Right of abrogating Laws, by a Declaration of their Will only. This Objection was made, not to the Design which Mr. *French* had in View, but to the Method he took of accomplishing it; for at the same time that the most eloquent of our Senators gave this sensible Reason for rejecting the Resolutions, he did not say one Word in favour of the C—ncil; on the contrary, not only he, but his Brother, and another learned M—ber also, who has distinguished himself this S—n by his Obsequiousness to the r—ng P—rs in all other Points, did declare, that this Power of the C—ncil was a Grievance which demanded Redress, and that if an Attempt should be made to remove it in a constitutional Way, they would concur in promoting it: Nay, that great Oracle of the Law, went still farther, and said, with his usual Modesty, that if Heads of a Bill should be brought in for that Purpose, he would not only give his Vote for them, but, to the utmost of his little Abilities, would contribute to support them.

Though the Majority of the H—se were determined to reject the Resolutions, they were a good deal puzzled to contrive a Manner of getting rid of them, without being forced to give a Negative to Propositions undoubtedly true; but at last they hit upon some Methods, which, although perhaps not strictly parliamentary, served for that Purpose.

As soon as the Resolutions were disposed of, Mr. *Pery* declared that, at their next Meeting, he should move the H—se for Leave to bring in Heads of a Bill to explain *Poynings' Law*, and the Act made in the third and fourth Years of *Philip* and *Mary*. He had not the least Expectation of being refused that Permission, since such a Bill seemed, indeed, to be demanded by the whole H—se; however the S——ry got up, and declared that he would oppose that Motion whenever it should be made. This passed on a *Saturday*; the next Day all the Gentlemen in Emp——nts, and the Leaders of the several Fact——ns were closeted, (I need not explain this Phrase to my *English* Readers) and received their Orders not to suffer that Bill to be brought into the H—se, which they most submissively obey'd; and accordingly, on *Monday* Morning, these *new Exclusioners*, with R——l's Secretary at the Head of them, took their Posts, and, after a long Dispute, carried their Point by a Majority of Ninety-six against Seventy-five; no great one, considering the extraordinary Efforts made on that Occasion.

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To the great Surprize even of those who know them, the two *Patriot Brothers*, and their *Follower*, notwithstanding their Declarations in the former Debate, voted, with the Majority, to exclude this Bill. If I were not convinced that these Gentlemen are the avowed Supports of the Protestant Interest in the Kingdom in general, and particularly in two neighbouring Counties not far distant from this Metropolis, I should be almost tempted to suspect, that by some Accident they had conversed with Jesuits in their Youth, and had from them learned this Casuistry; that the promising to support a Bill if it should be brought into the H—se, did not preclude them from using their utmost Endeavours to keep it out.

As many People may be desirous to know the Purport of this unfortunate Bill, I shall here insert it in its own Words.

‘ Heads of a Bill to explain an Act made in the
 ‘ tenth Year of the Reign of King *Henry* the
 ‘ seventh, intituled, An Act that no Parliament
 ‘ be holden in this Land, until the Acts be
 ‘ certified into *England*; and also one other
 ‘ Act made in the third and fourth Years of
 ‘ *Philip* and *Mary*, intituled, An Act declaring
 ‘ how *Poynings*’ Act shall be expounded and
 ‘ taken.’

‘ **W**HEREAS several Doubts have arisen
 ‘ concerning the true Construcion and
 ‘ Meaning of an Act made in the Tenth Year
 ‘ of

‘ of King *Henry* the seventh, intituled, An Act
 ‘ that no Parliament be holden in this Land, un-
 ‘ til the Acts be certified into *England*; and also
 ‘ of one other Act, made in the third and fourth
 ‘ Years of *Philip* and *Mary*, intituled, An Act
 ‘ declaring how *Poynings*’ Act shall be expounded
 ‘ and taken. For a full and plain Declaration of
 ‘ the true Meaning and Understanding of the
 ‘ said Acts

‘ We the ——— and Commons, in Parliament
 ‘ assembled, pray it may be enacted, and de-
 ‘ clared, That the Lord Lieutenant, or other
 ‘ chief Governor, or Governors, and Council of
 ‘ the Realm of *Ireland*, for the Time being, do,
 ‘ and shall certify all such Considerations, Causes,
 ‘ Tenors, Provisions, and Ordinances, as either
 ‘ House of Parliament shall judge expedient to
 ‘ be established within the same Realm of *Ire-*
 ‘ *land*, to his Majesty, his Heirs, and Successors,
 ‘ under the great Seal of this same Realm of
 ‘ *Ireland*, without making any Addition to, Di-
 ‘ minution from, or Alteration in the same, save
 ‘ putting the same into due Form of Law.’

This is the Bill, which was to take away all the Dependence of *Ireland* upon *England*, and which appeared so formidable to those in Power, that they wou’d not even suffer it to be read in the House of Commons. I am informed that there is no Precedent in our Journals of any Member’s being refused Leave to bring in the Heads of a Bill: The putting the Question upon that Motion

tion proves, beyond Dispute, that the H—se has a Power of refusing that Permission ; but this is the first Instance in which they have exerted it. The same Party could, with more Ease, have admitted the Bill, and have put a Negative upon it, without treating it with such unusual Contempt ; so I cannot but suppose that, in chusing the most odious Method of getting rid of it, they consulted the tender Consciences of those Gentlemen, who had unwarily engaged themselves to support the Bill, if it once got Admittance into the House.

In my Opinion no Bill was ever formed more plain, more moderate, or more equitable than this is. It does not desire that any Bill should be propounded in either H—se of P—l—nt, which has not first been approved of by the K—g, and his C—ncil in *England* ; and is so far from tending to weaken the Connexion between that Kingdom and this, that it would have rendered that Union still more intimate than it is, by freeing his M—j—sty from the Tutelage of his *Irish* C—ncil, and making it possible for him to know the Complaints, and the Desires of his Subjects. Without such Knowledge the best of Princes cannot rule with the Affections of their People, which even the most absolute would wish to do, if it could be accomplished without the smallest Diminution of their Authority. — The leaving to the Privy-Council, at the same Time that it takes from them a Power inconsistent with the Nature of our Constitution, the Liberty of sending

fending, with every Bill they shall transmit to *England*, their Sentiments and Advice upon it, is a farther Proof of the great Moderation of this Bill. No Man breathing can be so prejudiced as to think it merited the Scorn with which it was rejected.

I must own I had great Expectation of the Bill's passing in this S——n, and was the more seriously afflicted at the undeserved Fate of it, as I shall never hereafter have as much Reason for forming so agreeable an Hope. It is only in good Times that we can expect good Laws; I have heard it often asserted, (for People who feel themselves oppressed, will ever be suspicious) that one of the principal Instructions generally given, or insinuated to our G——rs, is to leave us in at least as bad a Condition as they found us. But we are at present happy in a L—d L——t, whose high Rank, and vast Property, whose great Abilities, and the natural Bent of his Temper, do all conspire to make him so intirely independent of any body upon Earth, that he would scorn to receive such servile Orders; and we have a Man at the Head of Affairs in *England*, who wou'd scorn to give them: Nay, we have even an honest Secretary; the Friends of their Country, in our P—l——nt, are active and resolute; the Heads of that Party which would oppose all good Laws, are dispirited and languid; and, from an Hanking after their lost Popularity, are content to give their silent Votes against those good Institutions, which they dare not oppose in a more conspicuous Manner. Can we ever hope for another
Conjuncture

Conjuncture so favourable to our Wishes as this seemed to be? For my Part, I am not sanguine enough for such an Imagination. The D—ke of B——d's returning to this Kingdom, which I most sincerely wish for, is very precarious, and would be so, though that Event were to depend meerly upon the Inclinations of his Gr——e; we do not know that he will desire to honour us again with his Presence. The Continuance of Mr. *Pitt's* Influence is still more uncertain: We can form no Judgment of it; nor can the Experience of past Times give us any Assistance in framing even Conjectures on that Subject, as his Power is established upon Merit only, a Foundation that no Minister, except himself, ever thought of building on: In vain shall we search our Annals for so extraordinary a Phænomenon, as a Man who was at once the first Minister of the Cr——n, and the most strenuous Assertor of the Liberties of the People; yet these seemingly incompatible Characters we see united in these happy Times, for happy they must prove, notwithstanding our late unaccountable Misfortunes, under the Administration of a Man, who, though blessed with the greatest Abilities, is as free from bad Ambition, as he is from Avarice; who is untainted with the Luxury and Vices of the Age; and of such perfect Integrity, that not even the Love of Praise, that darling Passion of his noble Soul, can make him swerve from what he thinks is just. To him I appeal.—Would he alone were to judge our Cause! He looks beyond the narrow Views

of little Minds, and sees that the Prosperity of *Ireland* is the Prosperity of *England*; and that the Interests of the two Kingdoms are not opposite, but inseparable. — I know that, in what I have said of this great Man, I do not speak the Sentiments of a large Party amongst us, who are acted upon by other Influence, and are unwilling to allow the Merit of a Character so very opposite to their own; but as I am resolved to be unknown, whatever they may think, I cannot justly be accused of Flattery; a disinterested Flatterer would be as uncommon a Character as a disinterested Minister.

No anonymous Writer can challenge so much Credit from his Reader as he, who, by owning his Name, declares that he is neither ashamed or afraid of any thing he has asserted. This I am convinced of; yet I have so very reasonable a Motive for concealing mine, that I must hope it will plead my Excuse. I have a Prospect of obtaining, in a short time, a Seat in the H—se of C—ns; and notwithstanding all that I have said, may, perhaps, find it convenient to vote in a future S—n against this very Bill which I am now defending. I have observed, that when young Men are obliged to give their Voice against their avowed Sentiments, they do it very awkwardly for the first Week, or two, until they become a little inured to publick Business; to avoid such an Embarrassment, I am resolved to give nothing under my Hand, but chuse to sacrifice the Vanity of an Author, rather than deprive myself for one Hour

of

of that most substantial of all p—l—ry Privileges, the voting according to my Interest.

Since I finished these Observations, I am more convinced than I was before, that the publishing them may be of publick Utility. I have conversed with several *English* Gentlemen, who, although they were upon the Spot, and in a Way to be more thoroughly informed of our Proceedings in P—l—nt, than they could possibly be in another Kingdom, were yet alarmed at them, and imagined that they tended to repeal that Act by which all the Statutes, established in *England*, were made to be of force in *Ireland*; so strongly were they prepossessed by the Name of *Poynings' Law*. I am confident it is to this one Mistake that the Jealousy of the *English* is owing; else how can we account for their opposing a Regulation which relates meerly to the particular Administration of this Kingdom, and no way interferes with the Prerogative of the Cr——n, or our Connection with *England*. So I shall conclude this Essay, by repeating once more the Caution I gave my Readers, and intreating them, that whenever they think on this Subject, they will remember, that by *Poynings' Law* we mean, in *Ireland*, an Act totally different from that to which they give the same Title in *England*.

An Act authorising Statutes, Ordinances, and Provisions to be made in this present Parliament concerning Government of the Common-weal, and the Augmentation of her Majesty's Revenues notwithstanding Poynings' Act. Rot. Parl. cap. 8.

‘ **I**N their most humble wise beseechen your
 ‘ most excellent Majesty, the Lords spiritual
 ‘ and temporal, and all other your Highness most
 ‘ loving and obedient Subjects, the Commons in
 ‘ this your high Court of Parliament assembled :
 ‘ That where in a Parliament-holden at *Drogheda*,
 ‘ the *Munday* next after the Feast of Saint *Andrew*
 ‘ the Apostle, in the tenth Year of your most
 ‘ noble Grandfather King *Henry* the Seventh, be-
 ‘ fore Sir *Edward Poynings* Knight, then Lord
 ‘ Deputy of this Realm, it was amongst other
 ‘ things enacted and established, That no Par-
 ‘ liament should be holden in this Realm, but at
 ‘ such Season as the King's Lieutenant and Coun-
 ‘ cil here did certify the King under the great
 ‘ Seal of this Realm the Causes and Considera-
 ‘ tions, and all such Acts as them seemed, should
 ‘ pass in the same Parliament, and such Causes
 ‘ and Considerations and Acts affirmed by the
 ‘ King and his Council to be good and expedient
 ‘ for this Realm, and his Licence thereupon, as
 ‘ well Affirmation of the said Causes and Acts,
 ‘ as to summon the said Parliament under his
 ‘ great Seal of *England* had and obtained, That
 ‘ done, a Parliament to be had and holden after
 ‘ the Form and Effect afore rehearsed : And if
 ‘ any Parliament be holden in this Realm con-
 ‘ trary to the Form and Provision aforesaid, it
 ‘ be deemed void and of none Effect in the Law.
 ‘ By occasion whereof, no Establishments or Pro-
 ‘ visions can be concluded by the Body of your
 ‘ Majesty's

' Majesty's Parliament being assembled, but such
 ' only, as have been before their Assembly cer-
 ' tified unto your Highness, and affirmed by the
 ' same. And so the most grievous Sores of this
 ' your Highness Common-wealth, which are best
 ' known to such as are and shall be appointed to
 ' be of that high Court, and most felt by them,
 ' cannot be conveniently reformed, as having
 ' not been before certified to your Highness. It
 ' may therefore please your Majesty of your
 ' most abundant Grace, and for the princely
 ' Zeal that your Highness hath ever tenderly
 ' borne unto this your poor Realm, that it be
 ' enacted, ordained and established, and be it
 ' enacted, ordained and established by your most
 ' excellent Majesty, with the Assent of Us the
 ' Lords spiritual and temporal, and Commons in
 ' this present Parliament assembled, and by the
 ' Authority of the same, That all and every the
 ' Acts, Statutes, Ordinances, Provision, Thing
 ' and Things of what Nature, Name, Condition
 ' or Quality the same shall be of, to be had,
 ' done, made, ordained and established, by the
 ' Authority of this present Parliament that shall
 ' concern the Common-weal of this Realm, or
 ' of any Province, Territory, Country, Shire,
 ' Member or Part thereof, or any good Orders
 ' for Repression or Reformation of Enormities,
 ' Vices and Abuses that do or may annoy this
 ' Common-weal, or any Part or Member there-
 ' of, or your Highness Subjects resiant therein,
 ' or the better correcting or amending of De-
 ' faults that shall be seen to the said Court of
 ' Parliament meet to be reformed for the Ease
 ' of your Highness Subjects, or the Devise of
 ' wholesome Ordinances for the Correction and
 ' well ordering of the Life and Manners of your
 ' Majesty's People here, or the Establishment of
 ' civil

‘ civil Policy, Quiet and Order amongst your
 ‘ good and loving Subjects, or the Augmenta-
 ‘ tion of your Majesty’s Revenues, or the Assu-
 ‘ rance of your Majesty your Heirs and Succes-
 ‘ sors to any Lands, Tenements, Hereditaments,
 ‘ Casualties, Commodities or Profits which shall
 ‘ be certified unto your Majesty under your great
 ‘ Seal of this your Realm of *Ireland*, and by
 ‘ your Highness allowed and consented unto,
 ‘ and after returned unto *Ireland* under the great
 ‘ Seal of *England*, and after openly proclaimed
 ‘ in the Cities and Towns of *Dublin, Water-*
 ‘ *ford, Cork, Limerick, Drogheda* and *Galway*,
 ‘ shall immediately after the said Proclama-
 ‘ tions in Form aforesaid, made and pronoun-
 ‘ ced, and not before, be good, effectual, and
 ‘ of full Force and Validity to all Purposes, In-
 ‘ tents and Constructions. The said Act made
 ‘ at *Drogheda* or any other Act or Acts, Consti-
 ‘ tution, Use, Law, Prescription or Custom here-
 ‘ tofore had, done, made, used or continued
 ‘ within this Realm to the contrary of this pre-
 ‘ sent Ordinance or Establishment in any wise
 ‘ notwithstanding.’

*An Act that there be no Bill certified into England
 for the Repeal or suspending of the Statute past
 in Poynings Time, before the same Bill be first
 agreed on in a Cession of Parliament holden in this
 Realm by the greater Number of the Lords and
 Commons. Rot. Parl. cap. 18.*

‘ **W**HEREUPON Experiment of the Right
 ‘ Honourable Sir *Henry Sydney* Knight of
 ‘ the noble Order of the Garter, Lord President
 ‘ of *Wales*, and Lord Deputy of this your Ma-
 ‘ jesty’s Realm of *Ireland*, his great Travail and
 ‘ Care for the Advancement of the Glory of God,
 ‘ your

‘ your Majesty’s Honour and the Utility of the
 ‘ Commonwealth of this your Highness Realm,
 ‘ and an undoubted Hope that his Lordship
 ‘ would not seek the passing of an Act, but such
 ‘ as should tend to the Furtherance of your Ma-
 ‘ jesty’s Service, and Benefit of your Highness
 ‘ Realm. We your Majesty’s Subjects assembled
 ‘ in Parliament assented to the Repeal of a Sta-
 ‘ tute passed before Sir *Edward Poynings* Lord
 ‘ Deputy of *Ireland*, prohibiting either any Par-
 ‘ liament to be summoned, or any Act to be
 ‘ treated of in Parliament before the Acts were
 ‘ certified under the great Seal of this your Ma-
 ‘ jesty’s Realm and returned hither under the
 ‘ great Seal of *England*, before which Statute,
 ‘ when Liberty was given to the Governors un-
 ‘ der your Majesty’s Progenitors to call Parlia-
 ‘ ments at their Pleasure, Acts passed as well to
 ‘ the Dishonour of the Prince, as to the Hinder-
 ‘ ance of their Subjects: the Remembrance
 ‘ whereof would indeed have stayed us from con-
 ‘ descending to the Repeal of the said Statute,
 ‘ were it not that the Government of your Ma-
 ‘ jesty’s Deputy hath been alway, and continueth
 ‘ such as to all your Highness Subjects giveth just
 ‘ Cause to reckon what proceedeth through his
 ‘ Motion to your Highness to be meant only for
 ‘ the Honour of your Majesty, and the common
 ‘ Benefit of this your Realm, and therefore as
 ‘ we mought safely, so did we willingly agree to
 ‘ the Repeal of the said Statute, but most graci-
 ‘ ous Sovereign, fearing that some Governors
 ‘ hereafter should hap not to make answer unto
 ‘ the Expectation of your Majesty or your High-
 ‘ ness Heirs and Successors by whom he should
 ‘ be appointed Governor, and not following the
 ‘ Example of your Highness Deputy at these pre-
 ‘ sents, will upon Affection or some other Re-
 ‘ spect,

'spect, abuse the like Liberty given him. We
 'your Majesty's Subjects now assembled in Par-
 'liament do most humbly beseech your Highness
 'that it may please the same, that it may be
 'enacted. And be it enacted, ordained and
 'established, by your Majesty with the Assent of
 'the Lords spiritual and temporal, and the Com-
 'mons in this present Parliament assembled, and
 'by the Authority of the same, That hereafter in
 'the Government if any other Deputy or Gover-
 'nor of this your Majesty's Realm there be no
 'Bill certified into *England* for the Repeal or sus-
 'pending of the said Statute passed when Sir *Ed-
 'ward Poynings* was Lord Deputy of *Ireland* be-
 'fore the same Bill be first agreed on in a Session
 'of Parliament to be holden within this Realm,
 'by the more Number of the Lords assembled in
 'Parliament, and the greater Number of the
 'Common-house. And if there be that any Act
 'passed or to be passed thereupon Touching the
 'Repeal or suspending of the said Statute passed
 'in Sir *Edward Poynings* Government to be ut-
 'terly void, and of no Effect to all Purposes and
 'Intent.



F I N I S.

